



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

JUL - 1 1998

Office of the Assistant Secretary  
AFBCMR 93-00325

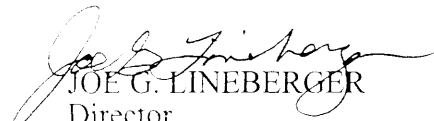
MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that the Promotion Recommendation Form for the Calendar Year 1991A (CY91A) Lieutenant Colonel Board be amended as follows:

- a. Section IV. Promotion Recommendation: Delete the last word "Promote" and replace with "Definitely Promote."
- b. Section IX. Overall Recommendation: Delete the "X" in the "Promote" block and place it in the "Definitely Promote." block.

It is further directed that he be considered for promotion to the grade of lieutenant colonel by a Special Selection Board (SSB) for the CY91A board and, if selected, he also be considered for designation to Senior Service School (SSS) by the appropriate SSS Designation Board. If he is selected for promotion and SSS, the SSB's recommendations should be forwarded to the Air Force Board for Correction of Military Records at the earliest practicable date so that all necessary and appropriate actions may be taken consistent with his retroactive promotion.

  
JOE G. LINEBERGER  
Director  
Air Force Review Boards Agency

SECONE ADDENDUM TO  
RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

JUL - 1 1998

IN THE MATTER OF:

DOCKET NUMBER: 93-00325

COUNSEL: None

HEARING DESIRED: No

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RESUME OF CASE:

On 20 April 1993, the Board considered and, by a majority vote, denied applicant's request to replace three Officer Effectiveness Reports (OERs); reaccomplish the Promotion Recommendation Form (PRF) for the CY91A Lieutenant Colonel Board; grant Special Selection Board (SSB) consideration for that board and, if promoted, grant consideration for Senior Service School (SSS) selection and reinstatement. In a letter dated 18 December 1995, the applicant provided additional evidence, including a statement from the senior rater of the PRF, and requested reconsideration. HQ AFPC/JA provided an advisory opinion, which the applicant rebutted, contending in part that the CY91A PRF should be upgraded to a "Definitely Promote (DP)" recommendation and he should be directly promoted. On 18 December 1996 and 14 April 1997, the Board voted to replace the three OERs and grant SSB consideration for the CY91A Board. However, the Board denied applicant's request for an upgraded CY91A PRF and a direct promotion.

A copy of the Addendum to Record of Proceedings (ROP) is attached at Exhibit N.

In letters dated 29 April and 26 May 1997, applicant requested that the CY91A PRF be upgraded to reflect an overall recommendation of "DP." Included with his letters are statements from the PRF senior rater and the MLEB president.

Applicant's letters requesting reconsideration, with attachments, are provided at Exhibit O.

*[In a supplemental statement, the applicant also requests direct promotion to lieutenant colonel. His contentions regarding his request for direct promotion are contained in exhibit S.3]*

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AIR STAFF EVALUATION:

The Chief, Appeals and SSB Branch, HQ AFPC/DPPPA, reviewed this appeal and notes a reaccomplished PRF was not provided and there

is no way to determine the validity of the reaccomplished PRF if it has yet to be written. Prior to making a recommendation in this case regarding the PRF, the author must see the reaccomplished report before addressing the merits of the applicant's request. In the absence of the revised report, it would be premature to make a recommendation. However, the author does not recommend approval of replacing or upgrading the contested PRF in the absence of another review through the appropriate AFI 36-2603 channels. Based on the evidence provided, denial is recommended.

A complete copy of the Air Force evaluation is attached at Exhibit P.

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APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

Applicant rebutted the evaluation, indicating that neither he nor the senior rater had blank PRF forms nor the capability to have the forms retyped with the changes the senior rater wished to make. He was advised that AFPC has the capability to alter his PRF and would accept a statement from his senior rater stating the changes he wishes to make. Consequently, the senior rater has provided a statement wherein he indicates that the last comment in Section IV should be changed from "Promote" to "DP" and that the Overall Recommendation in Section IX should be changed to a "DP." Furthermore, the senior rater signed a corrected photo copy of the original PRF, which is provided. The applicant argues that since the senior rater is now giving him the one "DP" he had to give, his record is superior to the record of the officer to whom the senior rater originally gave the "DP." Since this officer's "DP" nomination was sustained at the MLEB, and his record is now the stronger of the two records, then his current "DP" nomination, had he received it originally, would also have sustained the review by the MLEB. The significant correction to his record, i.e., changing the OERs from one to three-star indorsements, requires approval of this request.

In subsequent responses, applicant further argued that according to Change 1 of AFR 36-10, dated 1 Feb 90, his senior rater is the final authority in determining which of his subordinates received his one "DP." In his latest statement, dated 21 May 1997, the senior rater stated that, had the applicant's record contained the OERs currently corrected by the Board, he would have awarded his one "DP" to the applicant.

Applicant's complete responses, with attachments, are provided at Exhibit R.

In a supplemental statement dated 20 February 1998, the applicant requests direct promotion to lieutenant colonel. He contends: that in the original CY91A board, 99.8% of officers with "DP" ratings were selected for promotion. However, an Air Force Time

article reported that the promotion rate at SSBs has been much lower than those of central boards. In recent conversations he's had with SSB personnel at AFPC, he was informed that the rate now is actually only 20% for officers with a "DP" rating. Furthermore, when he was first considered for promotion, the emphasis for officers competing for "DPs" was totally on performance. Whole person factors such as advanced degrees and advanced Professional Military Education (PME) were not considered in the PRF process. "DPs" were awarded solely as a result of the commander or senior rater's review of the officer's prior performance. Since 1995, the process has been changed by the Chief of Staff and as a result of the numerous SSBs conducted for the illegal PRF "mini-boards." Now SSB members meticulously scrutinize records and bring the broader "whole person" review perspective into their deliberative processes. According to a member of the SSB office staff at AFPC, the SSB now carefully reviews all officer records with "DP" recommendations and determines for themselves whether they, the SSB, believes the record before them is of "DP" quality. According to this official, the SSB would review his record along with the benchmark records, using current guidelines, without adding points to his score simply because he had a "DP" rating. After reviewing his promotion folder, if the board believed his record was of a "DP" quality, then the record would be up-scored somewhat in recognition of the "DP" rating. Otherwise, the record is considered just another "Promote" even though it has a "DP" recommendation. Of additional concern is the fact that he will lose his anonymity at the SSB. They will know he's the officer seeking relief but they will not know the significant type of corrections made to the three OERs or if the PRF the SSB now has was the original one or a corrected version. It was a virtual certainty that he would have been selected for promotion in-the-zone during the CY91A board with the "DP" his senior rater has awarded him. However, it will be impossible for a 1998 SSB to accurately reconstruct his 1991 central board and prevent present day biases from affecting their deliberative processes. Therefore, he asks that the AFBCMR act in his behalf and promote him to lieutenant colonel.

Applicant's complete supplemental statement is at Exhibit S.

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**THE BOARD CONCLUDES THAT:**

Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice to warrant granting partial relief. After thoroughly reviewing the extensive documentation pertaining to this appeal, including the three supporting statements from the senior rater, we are persuaded that the applicant would have received the senior rater's one

"DP" had the reaccomplished OERs originally reflected the three-star indorsement they now possess. Therefore, we believe the contested PRF should be upgraded and amended as indicated below, and the applicant given consideration for promotion to the grade of lieutenant colonel by SSB for the CY91A board. We note that in his original application the applicant also had asked for consideration for SSS if selected for promotion by the SSB and this request was granted by the Board when the case was re-examined in April 1997. Consequently, we further recommend the applicant be considered for SSS candidacy if selected for promotion by the SSB. Applicant's appeal for direct promotion by the correction of records process was also noted, as were his numerous contentions concerning the statutory compliance of central selection boards, the promotion recommendation appeal process, and the legality of the Special Selection Board (SSB) process. However, absent clear-cut evidence that he would have been a selectee had his folder reflected both the previously accomplished and presently recommended amendments, we believe that a duly constituted selection board applying the complete promotion criteria is in the most advantageous position to render this vital determination, and that its prerogative to do so should only be usurped under extraordinary circumstances. Applicant's dissatisfaction with the officer evaluation/promotion systems and SSB procedures notwithstanding, he has not demonstrated that the processes are illegal or deny him full and equitable consideration. Therefore, his request for direct promotion is denied and we recommend his records be corrected to the extent indicated below. Applicant's request for reinstatement has been noted; however, final disposition of this issue must await the results of the SSB.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that the Promotion Recommendation Form for the Calendar Year 1991A (CY91A) Lieutenant Colonel Board be amended as follows:

a. Section IV. Promotion Recommendation: Delete the last word "Promote" and replace with "Definitely Promote."

b. Section IX. Overall Recommendation: Delete the "X" in the "Promote" block and place it in the "Definitely Promote" block.

It is further recommended that he be considered for promotion to the grade of lieutenant colonel by a Special Selection Board (SSB) for the CY91A board and, if selected, he also be considered for designation to Senior Service School (SSS) by the appropriate SSS Designation Board. If he is selected for promotion and SSS, ~~the~~ SSB's recommendations should be forwarded to the ~~AF~~ Force

Board for Correction of Military Records at the earliest practicable date so that all necessary and appropriate actions may be taken consistent with his retroactive promotion.

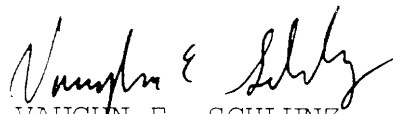
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The following members of the Board considered this application in Executive Session on 13 May 1998, under the provisions of AFI 36-2603:

Mr. Vaughn E. Schlunz, Panel Chair  
Mr. Kenneth L. Reinertson, Member  
Mr. Michael P. Higgins, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

Exhibit N. Addendum to ROP, dated 15 May 97, w/atchs.  
Exhibit O. Letters, Applicant, dated 29 Apr & 26 May 97, w/atchs.  
Exhibit P. Letter, HQ AFPC/DPPPA, dated 10 Jul 97.  
Exhibit Q. Letter, AFBCMR, dated 24 Jul 97.  
Exhibit R. Letters, Applicant, dated 11 Aug 97, 15 & 18 Dec 97, w/atchs.  
Exhibit S. Letter (Supplemental Statement), Applicant, dated 20 Feb 98, w/atchs

  
VAUGHN E. SCHLUNZ  
Panel Chair

7

MAY 15 1997

ADDENDUM TO  
RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 93-00325

COUNSEL: None

HEARING DESIRED: No

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RESUME OF CASE:

In a application dated 12 August 1992, applicant requested the following:

a. The Officer Effectiveness Reports (OERs) dosing 30 April 1986, 30 October 1986, and 15 August 1987, be declared void and replaced with reaccomplished OERs containing an indorsement in Section VIII by the former commander of the 9th Air Force (9<sup>th</sup> AF).

b. The senior rater of the Promotion Recommendation Form (PRF) for the Calendar Year 1991A (CY91A) Lieutenant Colonel. Board he allowed to reevaluate the PRF.

c. He be considered for promotion to the grade of lieutenant colonel by a Special Selection board (SSB) for the CY91A Board and all subsequent boards.

d. If promoted, he be given a commensurate effective date of promotion, granted consideration for Senior Service School (SSS) selection, and reinstated to active duty.

He contended that an indorsement level of the contested reports were the result of verbal orders handed down from a Corona conference designed to reduce the inflationary indorsement trends of OERs. This unofficial deflation policy was not implemented by all commands nor applied equably to all officers; however, it was implemented and strictly adhered to by the 9<sup>th</sup> AF. As a result, the indorsements on the contested reports were unfairly suppressed and do not portray his actual higher level of performance.

On 20 April 1993, the Board considered and, by a majority vote, denied applicant's request. The minority member voted to void and replace the contested reports and grant consideration by SSB for the CY91A board. The minority member recommended denial of the applicant's request pertaining to the PRF.

A copy of the Record of Proceedings is at Exhibit H.

In a letter dated 18 December 1995, applicant requested reconsideration, contending that regardless of whether or not the indorsement policy was ever "formally" issued, it was, in fact, a real and **formal policy** in the minds of those senior commanders who, according to Gen W--, indorsed and supported its development, implementation and enforcement. New statements from senior commanders who attended the Corona conference where the indorsement policy was discussed, developed and agreed upon make it obvious that AFMPC is wrong in their assertion that there was no indorsement policy. The use of quotas to control indorsements is illegal and contrary to Air Force regulations and in violation of known statutes. The applicant believes he cannot receive a fair promotion opportunity at an SSB and therefore requests, upon approval of this application, direct promotion to the grade of lieutenant colonel.

Applicant's complete reconsideration request is at Exhibit I.

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AIR STAFF EVALUATION:

Pursuant to the AFBCMR staff's request, the Staff Judge Advocate, HQ AFPC/JA, provided an evaluation indicating that, because it is difficult 10 years after the fact to accurately reconstruct the alleged unwritten policies with sufficient certainty, the request should be time barred. If considered on merit, it should be denied. Applicant's additional evidence and argument further supports the Board's original findings and conclusions. The former Air Force Chief of Staff, who presumably presided over the [OER indorsement de-escalation] policy, stated in his letter that the major air commanders agreed to enforce the policy, that the commands with the largest officer populations complied with the policy, and that only one command had some difficulty for the first year. The evidence clearly shows that an officer like the applicant could have received the highest level indorsement if his performance truly warranted it and that "numerous inequities" in application of the policy did not exist. The evidence he presents fails to establish that the policy to de-escalate indorsement levels on OERs violated AFR 36-10, para 3-1e, as he contends, or that such a quota system ever existed. Rather, a cooperative agreement was reached by the Air Force's senior leaders to initiate a policy to de-escalate indorsements across the board. He was not treated any differently than other officers who competed within the command for the higher level of indorsements on **their** performance reports. The Corona OER indorsement policy did not constitute a "supplemental directive" in violation of AFR 36-10, as applicant contends. The agreement described by [the former Chief of Staff] was an informal one among officers who comprised the highest indorsement levels to lower the inflationary levels in indorsements that obviously threatened their viability. It was not a formal, permanent change in a regulatory policy that would require supplement or change to the regulation. Indorsers did have the option to



elevate truly deserving OERs for the highest level indorsements; consequently neither AFR 36-10, para 2-23, nor AFR 36-89 was violated in the process. The policy questioned by the applicant was not part of the promotion system *per se*; it was part of the evaluation/promotion recommendation process governed by AFR 36-10 and not AFR 36-89. Notwithstanding, the indorsement de-escalation policy did nothing to render the overall Air Force promotion system less fair and equitable. Finally, the cases cited by the applicant either support propositions which are not actually at issue in this case, have been applied **improperly**, or taken out of context.

A complete copy of the Air Staff evaluation is at Exhibit J.

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APPLICANT'S REVIEW OF AIR STAFF EVALUATION:

Applicant reviewed the Air staff evaluation and states that he was entitled to an OER written in accordance with a regulation which afforded him several procedural protections. The contested reports were prepared contrary to the provisions of this regulation. An illegal indorsement quota was used and the primary basis for the indorsement level (promotion eligibility) was contrary to the regulation. As AFPC has not refuted any of the information presented concerning his PRF, he asks that the Board allow him time to contact his senior rater if corrections to the OERs in questions are granted. He also argues that the selection board process is defective and violates statute and DOD Directive. The Management Board is a board "to recommend for promotion to the next higher permanent grade...officers on the active duty list." However, this recommendation board denied him several rights to due process which were guaranteed him by statute. The requirements of Title 10 USC, Sections 616(c) and 617 are unequivocal. A majority of the members of the board "must certify" the officers recommended are best (and fully) qualified for promotion. The selection boards which considered his file did not allow board members either the knowledge of the officers recommended to make this decision nor did they allow a majority of the members of the board to form the required consensus. Air Force **selection** boards give final recommendation authority to the board president--not the majority of the members of the board as required by law. Further, as the separate boards required by DOD Directives 1320 were not held, the protection envisioned by this DOD Directive was denied him. The AFBCMR should set aside his nonselections and upgrade the PRFs he received for the CY91A and later boards to "Definitely Promote" recommendations. SSBs cannot provide a full, fitting measure of relief; therefore, he asks the AFBCMR to direct his promotion to lieutenant colonel as if selected by the CY91A board.

Applicant's complete response, with attachments, is provided at Exhibit L.

THE BOARD CONCLUDES THAT:

1. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice to warrant partial relief. In arriving at this conclusion, we considered the following:

a. At the CORONA conferences during the period in question, senior leadership apparently expressed concern that the increasing number of high-level indorsements on OERs had degraded the significance of three/four-star indorsements. The Air Force indicates that this concern neither generated a formally issued indorsement policy nor established indorsement quotas. The Air Force further contends that the CORONA OER indorsement guidelines did not cause large scale inequities. Based on the conflicting statements provided by the conference attendees, we have no reason to disagree with these basic assessments. However, it appears the local guidance some rating chain members may have received caused them to perceive that a quota on high-level indorsements was, in fact, being implemented. The applicant has demonstrated that, in his situation at least, such was the case. We are persuaded that his rating chain members sincerely believed that quotas for high-level indorsements existed in their wing and that these quotas could not be exceeded. They have indicated that, had they known then there were no restrictions on the number of OERs being elevated for the 9<sup>th</sup> AF commander's indorsement, they would have forwarded the applicant's reports to the commander. Based on the commander's statement, and the fact that he has signed all three reaccomplished OERs, we are also persuaded that, had the evaluators sent these reports forward when originally rendered, the commander would have signed them. Consequently, we have determined that the contested OERs should be voided and replaced with the reaccomplished reports provided. We further conclude that the applicant should be given consideration by SSB for the CY91A board with the reaccomplished OERs in his record. If he is selected for promotion, he then will be considered as a possible candidate for SSS. If he is selected for candidacy for SSS, he will be considered by an SSB for SSS.

b. Applicant's request for direct promotion to the grade of lieutenant colonel was considered, and his numerous contentions regarding the promotion selection processes were carefully examined. *(These particular contentions regarding the alleged illegal selection board processes, etc., which were raised in applicant's rebuttal to the AFPC's JA advisory, need to be addressed by the appropriate Air Force offices of primary responsibility. However, in a letter dated 21 April 1997 (Exhibit M), the applicant temporarily waived these contentions in view of the Panel Chairman's imminent retirement and in order to avoid delaying the recommended SSB consideration. He reserves the right to readdress these issues but asks that the case be processed without these additional contentions at this time and proceed with the SSB.)* We are persuaded that the applicant's rating chain believed a quota on three-star indorsements precluded them from

forwarding the contested OERs for the commander's signature. However, we cannot determine with any certainty whether or not these reports, as originally rendered, were the cause of applicant's nonselection as he contends. Nor can we state categorically that, with the reaccomplished OERs **now** in his records, he would or should be promoted. In this regard, the Board observes that officers compete for promotion under the whole person concept whereby many factors are carefully assessed by selection boards. An officer may be qualified for promotion but, in the judgment of a selection board vested with the discretionary authority to make the selections, may not be the best qualified of those available for the limited number he would have been a selectee had his folder contained the reaccomplished OERs, we believe that a duly constituted selection board applying the complete promotion criteria is in the most advantageous position to render this vital determination, and that its prerogative to do so should only be usurped under extraordinary circumstances. Therefore, applicant's request for direct promotion was not favorably considered.

c. With respect to the PRF reviewed by the CY91A board, the applicant has not provided persuasive evidence to warrant reevaluation of that document. The senior rater's statement was noted; however, we are not convinced that the PRF is inaccurate or that the recommended changes to applicant's record justify upgrading the PRF's overall recommendation. Absent persuasive evidence *to* the contrary, we find no compelling basis upon which to recommend granting this portion of the applicant's request.

2. In view of the above, we recommend applicant's requests regarding the PRF and direct promotion be denied, but that his request to replace the three contested OERs with reaccomplished reports ~~be~~ granted. We further recommend that the applicant be given consideration by SSB for the CY91A selection board and, if selected for promotion, he be considered for candidacy to SSS.

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THE BOARD RECOMMENDS THAT

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that the Officer Effectiveness Reports (OERs) rendered for the periods 6 October 1985 through 30 April 1986, 1 May 1986 through 30 October 1986, and 31 October 1986 through 15 August 1987, be declared void, removed from his records, and replaced with the reaccomplished reports provided, which reflect that the indorser is the Commander, rather than the Vice Commander, of Headquarters 9<sup>th</sup> Air Force (TAC).

It is further recommended that he be considered for promotion to the grade of Lieutenant Colonel by a Special Selection Board (SSB) for the Colonel Year 91A Lieutenant Colonel Board and, if selected, he be considered as a possible candidate for

Senior Service School (SSS). If selected for candidacy, then it is also recommended that he be considered by SSB for SSS. If he is selected for promotion and SSS, the SSBs' recommendations should be forwarded to the Air Force Board for Correction of Military Records at the earliest practicable date so that all necessary and appropriate actions may be completed.

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The following members of the Board considered this application in Executive Session on 18 December 1996 and 14 April 1997, under the provisions of AFR 31-3:

Mr. Walter A. Willson, Panel Chairman  
Mr. Thomas S. Markiewicz, Member  
Mr. John L. Robuck, Member  
Ms. D. E. Hankey, Examiner (without vote)

All members voted to correct the records, as recommended. The following documentary evidence was considered:

Exhibit H. Record of Proceedings, dated 5 May 93, w/atchs.  
Exhibit I. Applicant's Letter, dated 18 Dec 95, w/atchs.  
Exhibit J. Letter, HQ AFPC/JA, dated 15 Apr 96.  
Exhibit K. Letter, AFBCMR, dated 3 May 96.  
Exhibit L. Letter, Applicant, dated 3 Aug 96, w/atchs.  
Exhibit M. Letter, Applicant, dated 21 Apr 97.

*Walter A. Willson*  
WALTER A. WILLSON  
Panel Chairman

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 93-00325

COUNSEL : None

HEARING DESIRED: No

05 MAY 1993

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APPLICANT REQUESTS THAT:

1. The Officer Effectiveness Reports (OERs) for the periods 6 October 1985 through 30 April 1986, 1 May 1986 through 30 October 1986, and 31 October 1986 through 15 August 1987, be declared void and replaced with reaccomplished OERs covering the same periods and containing an indorsement in Section VIII by the former Commander of the 9th Air Force.
2. The senior rater of the Promotion Recommendation Form (PRF) issued for the Calendar 1991A (CY91A) Lieutenant Colonel Board be allowed to reevaluate the PRF.
3. He be considered for promotion to the grade of lieutenant colonel by a Special Selection Board (SSB) for the CY91A Board and all subsequent boards.
4. If promoted, he be given a commensurate effective date of promotion, granted consideration for Senior Service School (SSS) selection, and reinstated to active duty.

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APPLICANT CONTENDS THAT:

The current indorsement levels on the contested reports were the result of verbal orders handed down from a Corona conference to reduce the inflationary indorsement trends of OERs. These three OERs do not portray his actual higher level of performance and potential and this placed him at a disadvantage when considered by promotion boards.

This unofficial deflation policy was not implemented by all commands nor applied equably to all officers; however, it was implemented and strictly adhered to by the 9th Air Force. As a result, the indorsements on the contested reports were unfairly suppressed. He believes the officers reviewing his promotion folder observed a drop from three-star indorsement in prior reports to the two-star level of the OERs in question and, without benefit of an explanation as to why this drop occurred, incorrectly perceived this as the result of lowered performance and subsequently did not select him for promotion.

In support of his appeal, he provides statements from the rating chain members of these OERs. They indicate that, in an effort to comply with higher headquarters guidance to reduce inflationary OER trends, the 9th Air Force implemented, and strictly adhered to, a new policy regarding indorsement levels. That is, three-star indorsement was limited to officers in the primary zone who warranted promotion, officers who warranted early consideration, and other officers under very special circumstances. They all state that, but for this policy, applicant probably would have received three-star indorsement on the OERs in question.

The former 9th Air Force commander also provides a statement wherein he confirms commanders attending Corona conferences had agreed to attempt to reduce the growing number of reports being indorsed at the three/four-star level. In subsequent Coronas, **however**, they found that not all commanders were complying with this policy and numerous inequities resulted. Based on evaluators' comments, he believes the applicant's record is at a disadvantage when compared to his peers who were assigned to commands which violated the spirit and intent of the "deflation" policy.

Applicant's complete submission is provided at Exhibit A.

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STATEMENT OF FACTS:

Applicant served on extended active duty for 20 years. He was mandatorily retired in the grade of major on 1 August 1992, under 10 U.S.C. 8911, in accordance with the provisions of 10 U.S.C. 632.

He was considered but not selected for promotion to the grade of lieutenant colonel by the CY91A (convened 15 April 1991) and CY91B (convened 2 December 1991) Boards.

The Officer Personnel Records Review Board did not believe the interest of justice would be served by granting a waiver to the three-year statute of limitations under the provisions of AFR 31-11.

A resume of applicant's OERs/OPRs since 1984, follows:

<u>PERIOD CLOSING</u>	<u>EVALUATION OF POTENTIAL</u>
5 Oct 04	1-1-1
5 Oct 85	1-1-1
* 30 Apr 86	1-1-1
* 30 Oct 06	1-1-1
* 15 Aug 87	1-1-1
15 Aug 88	Meets Standards
15 Aug 89	Meets Standards
7 Jul 90	Meets Standards
# 16 Dec 90	Meets Standards

- \* Contested reports.
  - # Top report **reviewed** by the CY91A and CY91B Boards.
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AIR STAFF EVALUATION:

The Chief, Promotion Division, AFMPC/DPMAJ, reviewed this appeal and states that, although the subject of inflated indorsements was briefed at Corona conferences, no quotas were established, no written guidance was provided, and no formal limits of any kind were set. As evidenced by the letters of support, the evaluators of the contested reports understood top indorsements were available to top performers. Apparently his performance did not place him in the third ("special circumstances") category as an officer "deserving of special recognition for exceptional performance and potential." Since all the supporting statements acknowledge that it was possible to get a three-star indorsement (in fact, several of the applicant's peers did receive 9th Air Force commander indorsement on OERS rendered during 1985, 1986, and 1987), they conclude the applicant had ample opportunity for three-star indorsement had the members of his rating chain really believed his performance warranted such recognition. Therefore, they recommend applicant's appeal be time-barred or, if considered, denied.

A complete copy of the Air Staff evaluation is attached at Exhibit C.

The Chief, Retirements Branch, AFMPC/DPMARR, also reviewed this appeal and indicates applicant was mandatorily retired following two failures of selection for promotion to lieutenant colonel under the rules in effect at the time. Should the Board approve his request and he is promoted to lieutenant colonel by the SSB and returned to active duty, his mandatory date of separation would be changed.

A complete copy of the Air Staff evaluation is attached to Exhibit D.

The Chief, PME/AFIT Assignments/Special Fly Programs Branch, AFMPC/DPMRPC, reviewed the case and advises that because applicant was not selected for promotion to lieutenant colonel, he could not be considered for SSS. Should he be retroactively promoted to lieutenant colonel and reinstated to active duty, he should receive SSB consideration for SSS.

A complete copy of the Air Staff evaluation is attached to Exhibit E.

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APPLICANT'S REVIEW OF AIR STAFF EVALUATION:

Applicant reviewed the Air Staff evaluations and argues that an injustice was done to his promotion record as a result of the

inequities in the Corona OER indorsement policy. He contends this policy was an outside factor that unfairly prevented his commanders from giving him the indorsement level he deserved. He provides additional supporting statements.

Applicant's complete response is attached at Exhibit G.

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. The Board thoroughly reviewed the supporting statements from the rating chain members of the contested reports; however, the majority of the Board were not persuaded that the OERs in question should be voided. Contrary to the applicant's allegations, the evidence provided does not demonstrate that quotas regarding three- and four-star indorsements were established during the Corona conferences. While senior leaders attending these conferences agreed to exercise restraint in signing reports, there is insufficient evidence that formal limits of any kind were directed or that the number of high-level indorsements established by a MAJCOM could not be exceeded. In fact, we noted the supporting statements themselves appear to indicate that not only did the indorsement policy implemented by the 9th Air Force still make high-level indorsements available to those top performing officers who had earned them, but also that the rating chain members knew such indorsements were allowable. We must conclude then that, hindsight notwithstanding, the rating chain members believed the evaluations and indorsements on the contested reports were appropriate at the time they were rendered. The 9th Air Force established a policy that only the top performing officers would receive high-level indorsements on their performance reports. While other MAJCOM's may have had different policies, the majority of the Board believes the 9th Air Force policy was a decision of the 9th Air Force commander, and the applicant was treated no differently than other officers who competed for the higher level of indorsements on their performance reports. Therefore, in the absence of substantial evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.
4. With regard to the PRF, insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. Applicant has provided no supporting statement from the senior rater or the MLEB president indicating that upgrading the



PRF is justified and appropriate. Absent such evidence, we conclude that allowing the senior rater to reevaluate the PRF in question is unwarranted.

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RECOMMENDATION OF THE BOARD:

The majority of the panel finds insufficient evidence of error or injustice and recommends the application be denied.

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The following members of the Board considered this application in Executive Session on 20 April 1993, under the provisions of AFR 31-3:

Mr. Walter A. Willson, Panel Chairman  
Mr. Robert D. Stuart, Member  
Mr. C. Bruce Braswell, Member

By a majority vote, the Board recommended denial of the applicant's requests. Mr. Willson voted to grant voidance of the contested reports, placement of the reaccomplished reports in applicant's records, and reconsideration for promotion to the grade of lieutenant colonel by SSBs. He did not, however, wish to submit a Minority Report. Mr. Willson recommended denial of the applicant's request pertaining to the PRF. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 12 Aug 92, w/atchs.  
Exhibit B. Applicant's Master Personnel Records.  
Exhibit C. Letter, HQ AFMPC/DMPAJ, dated 9 Dec 92.  
Exhibit D. Letter, HQ AFMPC/DPMARR, dated 22 Jan 93.  
Exhibit E. Letter, HQ AFMPC/DPMRPC, dated 14 Jan 93.  
Exhibit F. Letter, AFBCMR, dated 10 Feb 93.  
Exhibit G. Letter, Applicant, dated 7 Apr 93, w/atchs.

*Walter A. Willson*  
WALTER A. WILLSON  
Panel Chairman



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE MILITARY PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE, TEXAS

FROM: HQ AFMPC/DPMAJ  
550 C Street West, Suite 8  
Randolph AFB TX 78150-4710

09 DEC 1992

SUBJ: AFR 31-3 Application: ~~\_\_\_\_\_~~  
OERs closing 30 Apr 86, 31 Oct 86, and 15 Aug 87

TO: AFBCMR

1. Requested Action. Substitute OERs with 3-star indorsements for the reports currently on file. Allow the senior rater to reevaluate the PRF issued for the CY91A (15 Apr 91) Lieutenant Colonel Board. Grant reconsideration by CY91A Lieutenant Colonel Board and senior service school (SSS) consideration. If selected for promotion, establish original date of rank, pay all back pay and allowances, and reinstate to active duty.

2. Basis for Request. The current indorsement levels on the reports are the result of verbal orders to reduce the inflationary indorsement trends of OERs. The other requested actions are contingent upon relief being granted on the OER issue.

3. Recommendation. Time-bar. If considered on merit, deny.

4. Facts and Comments.

a. A similar AFR 31-11 application was time-barred since the applicant didn't demonstrate diligence in discovering and initiating correction of the alleged errors in his record.

b. The applicant provides several letters of support from general officers who testify about OER indorsement policies resulting from agreements reached at Corona conferences. While much of this information is inarguably accurate, specific facts concerning the indorsement levels from different major air commands (MAJCOMs) do not support the applicant's claim that he suffered an injustice. Additionally, we believe the letters of support from his rating chain likewise fail to show he was rated unfairly.

c. Historically, during the time frame in question, senior Air Force leadership had become concerned with the increasing number of high-level indorsements appearing on officer effectiveness reports. The result of this "inflation" was that the worth of a high-level indorsement decreased. The subject was briefed at Corona conferences, but no indorsement policy was ever formally issued. It is

also extremely important to note that no quotas were established, no written guidance provided, and no formal limits of any kind set. The only result was an agreement by all senior leaders to exercise restraint in signing reports by ensuring only the top performing officers, regardless of any other criteria, received the top indorsements. The most important aspect was that there were no quotas; high-level indorsements were available to all who earned them.

d. This last aspect of the policy was very well understood by all senior officers responsible for preparing OERs. That the applicant's rating chain understood top indorsements were available to top performers is clear, as evidenced by the letters of support they provided in this case. The letter signed **by** a retired major general (atch 5, applicant's package) states that OERs were only elevated for '...(certain categories)... and other officers under very special circumstances.' The letters at attachment 6, 8, 9, 11, and 12 contain nearly identical statements. In our opinion, this language makes it clear that those preparing the applicant's reports were well aware of the fact that if special circumstances warranted, i.e., an outstanding specific achievement, sustained superior performance, etc., any individual could have been 'bumped **up**' for the highest indorsement. While the applicant was not an in- or below-the-zone eligible officer, apparently his performance did not place him in the third ('special circumstances') category as an officer 'deserving of special recognition for exceptional performance and potential.'

(1) We believe other highly conditional comments in the letters of support provided by the applicant do not lend credence to his claims. In the letter at attachment 7, for instance, the author (the applicant's former vice wing and wing commander) states high-level indorsements were reserved for officers '...in the primary zone...' or if an officer was 'one of the wing's key officers and was deserving of this indorsement level.' He goes on to discuss the applicant's previous indorsement history and then states '...his duty performance continued to merit the highest possible indorsement level permitted under this new guidance.' He concludes by saying that, without the policy, his OERs '...would probably have continued to be elevated to the 9AF/CC.' (Emphasis added.) Each of these statements acknowledge that his rating chain knew higher indorsements were allowable if the individual deserved them. Since they all acknowledged that it was, in fact, possible to get 9AF/CC (a Lt Gen) indorsement for the applicant, we are forced to accept the fact that he did not receive a 9AF/CC indorsement on any of his three OERs based upon the level of his performance as compared to his peers

e. Little in the way of statistical data concerning this issue has been maintained. No data is available that analyzes indorsement levels from any organization below the MAJCOM level. The data which is available, however, indicates the applicant was not unfairly impacted by any alleged "policy" or inequity.

(1) The applicant's first two contested reports were issued when he was a captain. We have reviewed historical data on the indorsement levels of OERs rendered during that time frame in the seven largest MAJCOMs such as SAC, TAC, USAFE, etc. (Note: Some of the smaller commands such as AFCC were commanded by a 2-star general; others, such as AAC, only had one general officer assigned and he was a 3-star.) During that period, five of the large MAJCOMs exceeded the 3-star indorsement averages for all MAJCOMs. Two commands **were** three percentage points over the average--TAC and AFSC. The applicant and his supporters believe he was at a disadvantage in the OER indorsement arena because of his assignment to a particular MAJCOM, numbered Air Force, and base: however, the numbers suggest the applicant actually had an advantage based solely upon his assignment to TAC, as that command's ratings were three percentage points above the MAJCOM average and two percentage points above the Air Force average.

(2) The applicant's 1987 OER was rendered while he was a major. The statistical data from that period shows only one of the large commands (not the applicant's) was over the AF and MAJCOM averages. While one might argue this proves the applicant was at a disadvantage for a 3-star indorsement on his 1987 OER (even at that, only to officers from one other MAJCOM), the data invalidates the allegation that there **were** numerous inequities depending on the command of assignment by showing that the majority of the commands were at or near the Air Force and MAJCOM averages.

(3) In any case, we believe this entire argument is irrelevant when compared to the more important issue: did any outside factor make it impossible for the applicant to receive a higher level indorsement? We believe the facts clearly show this was not the case.

f. Review of the Master Personnel Files of active duty officers who were serving in the same grade, in the same promotion year group, and assigned to the same base during the same time period as the applicant, reveals that several of the applicant's peers received 9 AF/CC (3-star) indorsements on OERs rendered during 1985, 1986 and 1987. We also noted that some of the applicant's peers received lower OER indorsements than the applicant. Based upon the factual data, we can only conclude that rating officials in the applicant's rating chain properly used a full range of OER indorsement levels to recognize a full range of ratee performance and promotion potential.

g. There are certain facts which were true six years ago and remain true today:


(1) Not everyone could have received a 3-star indorsement or the value of the indorsement was nil.

(2) The agreements reached by senior leadership at Corona conferences constituted guidelines--there were no quotas established which could not be exceeded.

(3) Senior leaders were in unanimous agreement that, regardless of a ratee's proximity to a promotion zone, a significant achievement or extraordinary performance level could be recognized with a 3-star or higher level indorsement. Thus, no officer was prevented from obtaining any indorsement level available.

h. The applicant's documentation does not overcome the above stated facts nor does it demonstrate that he was rated under different standards than the majority of his peers.

5. Summary. The applicant and his supporters believe there were large scale violations of the Corona OER indorsement guidelines which caused inequities based on the command of assignment; however, statistical data proves otherwise. Further, there were provisions to recognize 'star' performers regardless of their promotion status. We believe the letters of support from the applicant's rating chain make it abundantly clear that each of his raters was well aware that higher indorsement levels were available to anyone who earned them. In fact, higher indorsement levels were awarded to several of the applicant's peers. Therefore, we believe the applicant had ample opportunity for a 3-star indorsement had the members of his rating chain really believed his performance warranted such recognition. For these reasons, we strongly recommend the applicant's request to substitute the reaccomplished OERs be denied. --

  
MICHAEL J. DUFFEE, Lt Col, USAF  
Chief, Promotion Division  
Dir of Personnel Program Management,

2 Atch  
1. Case  
2. OSR

cc: SAF/MIBR